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NEWS RELEASE

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Corps to begin finalizing surplus water applications at Lake Sakakawea

OMAHA, Neb. — The U.S. Army Corps of Engineers announced today that it will move forward with finalizing current outstanding application requests for access to surplus water out of Lake Sakakawea.

In its final report to the Assistant Secretary of the Army (Civil Works), Jo-Ellen Darcy, the Corps determined that it can temporarily make available 100,000 acre feet of yield for municipal and industrial water supply use. This will allow M&I water users' access for up to 10 years. Ms. Darcy concurred in making available this provisional use of surplus water and directed the Corps to proceed with processing outstanding applications for access to the surplus water, and to enter into agreements for M&I use of that surplus water.

"We're prepared to begin finalizing surplus water contracts and will submit contracts to the ASA(CW) for her signature as soon as possible," said Omaha District Commander Col. Robert J. Ruch. "We understand the importance of finalizing these contracts, completing the review and approval process and the integral role municipal and industrial interests play in contributing to the economy of North Dakota and the nation."

The ASA(CW) has directed the Corps to pursue notice and comment rulemaking in accordance with the Administrative Procedure Act to establish a nationwide pricing policy for surplus water. The ASA(CW) directed the Corps not to charge for M&I surplus water withdrawals from Lake Sakakawea during a transitional period, pending the outcome of this rulemaking.

"We've been tasked with developing a nationwide pricing model that the ASA(CW) views as fair and reasonable for all water users," said Corps Project Manager Larry Janis. "Initiating the rulemaking process will be led by our headquarters and will begin right away."

In determining a new methodology, the Corps will develop a proposal and coordinate it through the administrative law rulemaking process used by executive agencies to promulgate formal rules. The process will allow the Corps to develop a new pricing model, inform the public about the recommended pricing methodology, allow time for public comment and agency response to the proposal, and provide time for any revisions, before a formal pricing model is set in place.

"We've worked hard to ensure that each of the stakeholders has had an opportunity to express their issues and concerns from the time we began developing this water supply report and we will continue to encourage public input as we develop a new nationwide pricing model for water users," Janis said.

In the interim, new users (defined as those requesting to use surplus water for M&I purposes for the first time or those seeking to increase such use) will be required to enter into a surplus water agreement, but will not be charged for the use of the water, pending the completion of rulemaking. For existing M&I users, a transitional period will be granted until the completion of the rulemaking process. During that period they may continue to make withdrawals without a surplus water contract or a charge for the use of the water.

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The requirement to enter into a water surplus agreement before accessing water from Lake Sakakawea does not apply to irrigation users as the Corps does not have authority to contract and charge for those irrigation withdrawals, said Janis.

The administrative law rulemaking process is expected to last approximately 18 months. Upon completion, all municipal and industrial water users of surplus water will be required to pay for that use in accordance with the new pricing policy established via rulemaking. The new pricing policy will be formally announced as part of the rulemaking process.

To view a fact sheet regarding surplus water, visit: http://www.nwo.usace.army.mil/html/pdf/Plan_Formulation/Review/review_plans.html

BACKGROUND: A surplus water report was completed at Garrison Dam/Lake Sakakawea to identify surplus water that could be made available through surplus water agreements for M&I use. The Corps incorporated public comment into the report. The ASA (CW) holds final approval authority for the report.

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